



**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION  
Milwaukee Area Office**

310 West Wisconsin Avenue, Suite 500  
Milwaukee, WI 53203-2292  
Intake Information Group: (800) 669-4000  
Intake Information Group TTY: (800) 669-6820  
Milwaukee Status Line: (866) 408-8075  
Milwaukee Direct Dial: (414) 297-1112  
TTY (414) 297-1115  
FAX (414) 297-4133 & 3146

Charge Number: 443-2016-01043

JEFFREY JOHNIKIN  
5530 N. 76<sup>TH</sup> STREET  
#2  
MILWAUKEE, WI 53218

Charging Party

V.

UNITED STEEL WORKERS LOCAL 322  
1126 S. 70<sup>TH</sup> STREET  
MILWAUKEE, WI 53214

Respondent

**DETERMINATION**

Under the authority vested in me by the Commission, I issue the following determination as to the merits of the subject charge filed under Title I of the Americans with Disabilities Act of 1990, as amended (ADAAA).

The Respondent is a covered entity within the meaning of the ADAAA and all requirements for coverage have been met.

Charging Party alleged that Respondent discriminated against him on the basis of his disability by failing to represent him.

I have considered all of the evidence and find that the evidence disclosed during the investigation shows that Respondent violated the ADAAA when it failed to represent Charging Party and a class of employees with disabilities: Respondent entered into a contractual agreement with C&D Technologies which had the effect of subjecting the employees to unlawful discrimination by limiting the amount of leave available to them which contractually allowed C&D Technologies to discharge them rather than allowing additional leave as a reasonable accommodation.

This determination is final. When the Commission finds that violations have occurred, it attempts to eliminate the alleged unlawful practices by informal methods of conciliation. Therefore, I invite the parties to join with the Commission in reaching a just resolution of this matter. Disclosure of information obtained by the Commission during the conciliation process will be made only in accordance with the Commission's Procedural Regulations (29 CFR Part

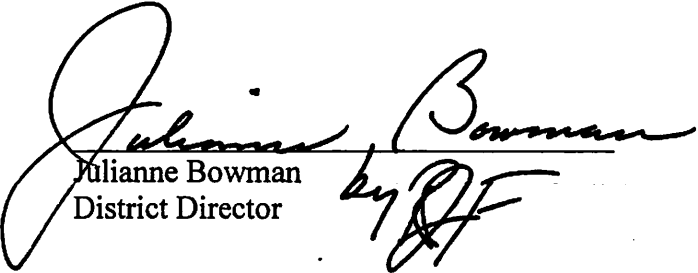
1601.26).

If the Respondent wishes to accept this invitation to participate in conciliation efforts, it may do so at this time by proposing terms for a conciliation agreement. That agreement should be provided to the Commission representative within (14) days of the date of this determination. The remedies for violations of the statutes we enforce are designed to make the identified victims whole, and to provide corrective and preventative relief. These remedies may include, as appropriate, an agreement by the Respondent not to engage in unlawful employment practices, placement of identified victims in positions they would have held but for discriminatory actions, back pay, restoration of lost benefits, injunctive relief, compensatory and/or punitive damages, and notice to employees of the violation(s) and the resolution of the claim.

Should the Respondent have further questions regarding the conciliation process or the conciliation terms it would like to propose, we encourage it to contact the assigned Commission representative. Should there be no response from the Respondent within (14) days, we may conclude that further conciliation efforts in this matter would be futile or non-productive.

On behalf of the Commission:

APR 11 2018  
\_\_\_\_\_  
Date

  
Julianne Bowman  
District Director

Attn:

Attn: Jill M. Hartley  
The Prevent Law Firm, S.C.  
310 W. Wisconsin Ave.  
Suite 100 MW  
Milwaukee, WI 53203